THE TRAVANCORE DEBT RELIEF ACT (AMENDMENT) BILL.

MR. N. RAMAKRISHNA PILLAI: I beg to introduce the Travancore Debt Relief Act (Amendment) Bill and move that the Bill be read in the Assembly.

MR. S. NARAYANA AIYAR: I second it.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: I oppose the motion for the introduction of the Travancore Debt Relief Act (Amendment) Bill. In the first place my submission is that there is no serious principle involved in the proposed amendment.

PRESIDENT: You are objecting the introduction of the Bill, I suppose.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: Yes Sir. I am opposing the introduction on this ground. The only change that is sought to be made by the proposed amendment is with regard to the reduction of the number of instalments default of which would entail loss of the benefit of the Act conferred upon the debtors, from 3 to 2. After all it is not a very serious matter and it is about 5 years since the Bill was passed into law. And this particular section will be in operation at the most for about 2 or 3 years more. The reason alleged in the objects and reasons is that the conditions created by the war have considerably enhanced agricultural incomes and have placed the debtors in a better position to pay off their debts. But Sir, the amendment, if it is passed into law will be applicable to all kinds of debtors irrespective of their position and their status. I can assure you and the honourable members that if this is passed into law it will work a lot of difficulties to the agriculturists and the low paid Government officers. If the agriculture.....

PRESIDENT: I may say at once that enquiries made by me show that practically no loan is now taken from the various banks in regard to this matter. The question is really this. This is what is intended in the interests of those who have not paid, because our people have a habit of slackening payments unless there is some incentive to pay. It is a matter in which Government are not committing to one position or other. They will abide by the opinion of the House.

MR. PULIYOOR T. P. VELAYUDHAN PILLAI: I formally oppose the introduction.

The question that the Bill be introduced in the House was put and lost.

THE CIVIL PROCEDURE CODE (AMENDMENT) BILL.

MR. N. RAMAKRISHNA PILLAI: I beg to introduce the Civil Procedure Code (Amendment) Bill and move that the Bill be read in the Assembly.

MR. S. NARAYANA AIYAR: I second it.

MR. A. P. UDAYABHANU: I oppose the introduction.

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MR. N. RAMAKRISHNA PILLAI: There are one or two points in which the present Civil Procedure Code stands in need of amendment. One of the amendments proposed is in regard to the constitution and functions of the Rule Committee. Honourable members of this House will be aware that under Section 92 of the Civil Procedure Code, a committee has been constituted to make rules for altering or adding to or amending the orders in the Civil Procedure Code. The present Code was enacted in the year 1100. Honourable members are aware that there are two parts to the Code, the first part relating to the substantive principles of procedure, which the Legislature alone is competent to alter; and the second part which contains orders and rules of a transient character. In British India, the practice is to entrust the work of amending, altering or adding to these orders, to an expert committee consisting of Judges of the High Court, leading advocates and others. This Committee meets often and makes the alterations in the rules. In regard to this, our Civil Procedure Code makes a slight difference. Under Section 92, the rule-making committee can make rules but, at the same time, before these rules are put into force, they have to be placed before the Legislature for their confirmation. That is a departure from the provisions in the British Indian Act. Here, Section 92 of the Code insists on the necessity of bringing the rules before the Legislature. Now, this is a very cumbrous procedure which leads to great delay in the enforcement of the rules. Honourable members will be aware that some of the rules have often to be changed as circumstances require. But these rules have to go before the Legislature and hence some delay is occasioned.

As a matter of fact, even though rules have been laid before the Legislature on several occasions, there has not been a single instance of an amendment being made. It has become a mere formal procedure, one which does not affect the powers of the Committee really. The Legislature has been adopting, as a matter of course, whatever rules that have been framed by the statutory Committee. The object of constituting a statutory Committee was to enable rules to be made or amended by them without resort to the Legislature. It is, therefore, considered necessary that the rule-making committee should be given the power to put through these rules with the approval of Government. That is the object of one of the amendments.

Another amendment is with regard to the trial of certain cases as summary cases. For instance, in regard to negotiable instruments, in regard to the recovery of property on the expiry of a term of lease and in regard to the recovery of certain sums of money, there are provisions in the British Indian Civil Procedure Code, which enable the Courts to give an expeditious remedy without resorting to a very complicated procedure. There have been complaints by commercial bodies about the present procedure. Honourable members will be aware that under Order XXXVII of the British Indian Civil Procedure Code suits relating to negotiable instruments could be tried summarily; powers are proposed to be given to the rule-making committee to make rules to provide for summary procedure in regard to certain kinds of suits. That is the object with which clause 6 of the Amendment Bill is proposed. Clause 6 says:—

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PRESIDENT: I suppose the Bill will go before a Select Committee.

MR. N. RAMAKRISHNA PILLAI: Yes, Sir. Then the next amendment is in regard to the recovery of Court Fees in pauper suit. Under the present procedure, Government have to recover the amount as a party to the suit. They have therefore to recover moneys due to them by means of execution in Civil Courts. In British India recently an amendment was made in the British Indian Civil Procedure Code by which power was given to the Government to enable them to recover such amounts by taking steps under the Revenue Recovery Act. That amendment is sought to be made in our Code. The old procedure will also remain These are the three amendments proposed to be introduced.

MR. A. P. UDAYABHANU: I oppose the amendments. The present Civil Procedure Code has been the result of an amendment made in 1100. The Select Committee at that time observed thus:

> "After considerable discussion and mature consideration we are, however of the opinion that the Legislature should have an opportunity of considering the rules before they are passed by the Government."

That was the opinion of the Select Committee, which sat over the amendment in 1100. I do not know why the right which this Assembly has to scrutinise the amendments suggested by the rule-making committee should be taken away now. Anyway this is a legislative body and we are here to make laws for the land. Why should we not be given an opportunity to look into the rules.

PRESIDENT: Order, order. I do not know how such a provision was passed by this Legislature in 1100. In no country in the world, in England or America or in the British Dominions is this right given to the Legislature, to sit in review or in judgment of the rules passed by the High Court for the purpose of regulating its procedure. In no country in the world has this right been given to the Legislature.

MR. A. P. UDAYABHANU: Whenever a measure which is sought to take away the right of the Legislature is brought forward, we quote the British Indian and other Legislatures, but where we quote the same Legislatures in cases, where the rights of people are preserved, we are not allowed to quote.

Further, we will be doing an injustice to the people and the country, if we give away our rights being taken away like this. If one Select Committee, rightly or wrongly, came to the conclusion that the rules have to be placed before the Legislature before they are finally passed, I think it is our duty to jealously guard the right that has thus been given to us.

Then the honourable the Legal Remembrancer was saying that there was no occasion when these rules were not accepted. If the rules have never been disallowed, why should he be afraid of presenting them before the Legislature? He asks why should we have that

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formality. Why, everyday we see supplementary demands being granted without a slight modification. Probably the next step will be to say that it is not necessary to move for grants simply because the Legislature allows all the demands.

Now, as regards the summary trial of promissory notes, I think it is a very dangerous proposition. If summary procedure is adopted, I think it will be opening the way for people forgoing negotiable instruments. Summary procedure will never be adequate. The whole thing must have a regular trial and every thing should be scrupulously scrutinised, because it is very easy to manufacture fraudulent negotiable instruments. Even at present people do forge. So I am deadly against such summary procedure.

Again in regard to the recovery of money due to Government, a shortcut has been suggested by the Legal Remembrancer. Everybody is very anxious to realise their money as quickly as possible. So if a shortcut is suggested for the Government it should be extended to everybody.

PRESIDENT: Government are in favour of allowing shortcuts for the recovery of money due to the general public. That is why the summary procedure has been suggested. What happens in very many cases is that, merely for the purpose of prolonging a litigation, a man says that it is for the plaintiff to prove the promissory notes, etc.

MR. A. P. UDAYABHANU: Shortcuts are often very dangerous. From experience we know that it is not due to the dilatory tactics on the part of the defendants that litigation is prolonged, but it is due to the laxity of the Courts. Therefore I am against the shortcut method also. I, therefore, oppose the entire set of amendments.

MR. K. K. CHELLAPPAN PILLAI: With regard to the President's remarks about other countries.....

MR. T. P. VELAYUDHAN PILLAI: I rise to a point of order. Standing Order No. 81 reads:

> "If a motion for leave to introduce a Bill is opposed, the President, after permitting, if he thinks fit, a brief explanatory statement from the member who moves and from a member who opposes the motion may, without further debate put the question."

The question that the Bill be introduced, was put to the House and carried.

SECRETARY: The short title of the Bill shall be the Civil Procedure Code (Amendment) Bill.

MR. N. RAMAKRISHNA PILLAI: I move that the Bill be referred to a Select Committee consisting of the following members:

1 The Deputy President

Messrs:

2 P. S. Gopala Pillai

3 K. K. Chellappan Pillai

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[Mr. N. Ramakrishna Pillai.]

Messrs.

4 V. Madhavan
5 M. K. Chandrasekhara Bhattathiri
6 K. C. Karunakaran
7 A. R. Sulaiman Sait
8 V. K. Velappan Nair
9 M. L. Janardhana Pillai
10 K. R. Narayanan
11 M. R. Ramakrishna Pillai

MR. S. NARAYANA AIYAR: I second it.

The question was put to the House and carried.

THE TRAVANCORE LIMITATION ACT (AMENDMENT) BILL.

MR. N. RAMAKRISHNA PILLAI: I beg to introduce the Travancore Limitation Act (Amendment) Bill and move that the Bill be read in the Assembly.

MR. S. NARAYANA AIYAR: I second it.

The question was put to the House and carried.

SECRETARY: The short title of the Bill shall be the Travancore Limitation Act (Amendment) Bill.

MR. N. RAMAKRISHNA PILLAI: I move that the Bill be referred to the same Select Committee as for the previous Bill.

MR. S. NARAYANA AIYAR: I second it.

The question was put and carried.

The House rose for the day at 4-45 p. m.

Assembly Office,
23rd July 1945.

S. VAIDYANATHA AIYAR,
Secretary to the Sri Mulam Assembly.

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